

This Court's March 5, 2014 preliminary injunction order required Defendants to direct all revenues from FlowJo software sales into FlowJo, LLC's operating account. Dkt. 95 at 17. The Court's Order permits Defendants to use 75% of these revenues for operating expenses, with the remaining 25% to be deposited in a trust account and held in escrow until a judgment is rendered in this case. *Id.* The Court's Order also requires Defendants to submit detailed expense reports substantiating their claimed expenses. *Id.*¹

As of April 1, 2014, Defendants had deposited \$475,195.82 into the FlowJo LLC operating account from sales of FlowJo software. However, as of the close of business today, Defendants have not deposited any funds into the trust account. Plaintiffs contacted Defendants on March 28 and again on March 31, and requested an immediate transfer of 25% of the FlowJo sales proceeds to the trust account, as required by this Court's Order. Ex. A, Rowden email to Liddiard. In response, Defendants would not agree to make the transfer, but instead claimed: "We are in compliance with the PI Order. You are clearly trying to impose requirements on Tree Star that are nowhere to be found in the actual PI Order that was issued by the Court." Ex. B, 3/31/14 Liddiard email to Rowden.

Defendants are not complying with this Court's preliminary injunction order. Plaintiffs are not imposing additional requirements on either Defendant. Plaintiffs have sought nothing more than what this Court's Order expressly requires, namely, 25% of FlowJo sales proceeds deposited into the trust account. This Court has the inherent power to enforce its orders and hold Defendants in contempt if they willfully ignore the Court's orders. *E.g., Wells Fargo Bank, N.A. v. Clark*, 6:11-CV-06248-HO, 2012 WL 4794156, *7 (D. Or. Oct. 5, 2012) (citing *Michaelson v.*

¹ If Defendants' legitimate business expenses exceed the 75% threshold, the Court's Order permits Defendants to submit documentation of such additional expense for approval by Plaintiffs. Dkt. 116. Plaintiffs have committed to provide a prompt response to any such requests, but so far Defendants have not submitted any. *Id.*

U.S. ex rel. Chicago, St. P., M., & O.R. Co., 266 U.S. 42, 65–66 (1924)); ORS 33.025(1); Or. Rev. Stat. Ann. § 33.015. Accordingly, Plaintiffs respectfully request that this Court order Defendants to comply fully with the Court’s preliminary injunction order, including by immediately depositing in the trust account 25% of the revenues from FlowJo software sales and submitting detailed expense reports to substantiate their claimed expenses.

April 1, 2014

Respectfully submitted,

/s/ Todd A. Rowden
One of His Attorneys

David B. Paradis, OSB No. 853016
Brophy Schmor LLP
201 West Main Street, 5th Floor
Medford, OR 97501
T: (541) 772-7123
F: (541) 772-7149
E: dparadis@brophylllegal.com

Of Counsel:

Raymond J. Stewart (*pro hac vice*)
Todd A. Rowden (*pro hac vice*)
Kal Shah (*pro hac vice*)
Adam Wolek (*pro hac vice*)
THOMPSON COBURN LLP
55 E. Monroe Street, 37th Floor
Chicago, IL 60603
T: (312) 346-7500
F: (312) 580-2201
*Counsel for Plaintiffs Mario Roederer and
FlowJo, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on April 1, 2014, the foregoing **Plaintiffs' Motion to Order Defendants to Comply with the Court's Preliminary Injunction Order** was served on the following counsel of record via electronic mail:

Dylan J. Liddiard
Dale Bish
Jasmine Owens
650 Page Mill Road
Palo Alto, CA 94304

All parties in this case have consented to service by electronic means under Fed. R. Civ. P. 5(b)(2)(D).

/s/ Todd A. Rowden